

M/S 532

NOV 30 1983

Joe Cladouhos
State of Alaska
Department of Environmental Conservation
Pouch O
Juneau, Alaska 99811

Dear Mr. Cladouhos:

Since the complete signing of the MOU between EPA and ADEC regarding full PSD delegation, a question surfaced concerning the jurisdiction over EPA issued PSD permits. We realize the agreement states that ADEC will not take future actions on existing EPA issued PSD permits. However, to prevent redundancy and confusion in the regulated community we feel that ADEC, not EPA, should be the sole agency for all future PSD activities in Alaska. It appears that the following four options are available for handling EPA-issued permits:

1. When the State air contaminant discharge permit for a source with an EPA-issued PSD permit requires a modification or expires, the State should issue a new permit which removes any discrepancies with the federal permit. In those cases where the State permit contains all the provisions of the federal permit, it would be submitted to EPA for incorporation into the SIP. EPA would then approve the State permit, transferring administrative and enforcement authority of the EPA permit to the State. This process must be done on a case-by-case approach which would take a long period of time before all EPA issued permits come under the purview of the state.
2. The State could simply adopt all EPA-issued permits and submit them as a SIP revision. A legal analysis of this option is needed by the State to determine if the State has this authority.
3. EPA can delegate to ADEC its authority to modify and enforce the federal PSD permits issued prior to November, 1982. In this option, ADEC would not have to adopt or modify any state permits or adopt EPA's permits. Furthermore, no permits would have to be submitted as SIP revisions. This option is preferred for two reasons. First, a company could work with one agency to modify both air permits; eliminating any State/federal redundancy. Secondly, this option would not needlessly strain limited resources.

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4. As stated in the MCO, ADEC will not take action on existing federal PSD permits or on issues which affect only the existing federal permits. This option perpetuates dual responsibility and complicates matters such as increment consumption and how the State wants to regulate the air quality resources. As mentioned earlier, this is not our preferred option. We would like to see the State as the sole agency the regulated community looks to for guidance and authority.

It is important to note in any case that the EPA issued PSD permits remain in effect. However, the major difference between options is which agency has authority to modify or enforce EPA issued permits. If the State receives primacy on these permits, EPA will provide technical assistance and maintain only a secondary enforcement role.

Please be aware that regardless which approach is taken, the reviewing authority must follow the same public participation procedures noted in 40 CFR 52.21(q) for modifications of preconstruction PSD permits. We believe that a modification or extension proceeding should receive no less an opportunity for public involvement than did the original permit application when consumption of a PSD increment or national standard would occur.

Please advise us of how you wish us to proceed.

If you have any questions please feel free to contact Ray Nye of my staff at (206) 442-7154.

Sincerely,

Clark L. Gaulding, Chief
Air Programs Branch

cc: Dave Estes, ADEC
Steve Torok, AOC
Len Verrilli, ADEC
Stan Hungerford, ADEC

bcc: Chuck Kleeberg, EPA-W00

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